

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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DEC 31 2003

Federal Communication Commission
 Bureau / Office

In the Matter of)

Amendment of Section 73.622(b))

Table of Allotments)

DTV Table of Allotments)

(Apalachicola, Florida))

RM- 10851

W7C

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To: Chief, Video Division

FEB - 5 2004

PETITION FOR RULEMAKING

Federal Communications Commission
 Office of the Secretary

1. Liberty County Educational Foundation ("LCEF"), pursuant to Sections 1.401(a) and 73.622(a) of the Commission's Rules, hereby petitions (the "Petition") the Commission to institute a rulemaking proceeding to amend the Digital Television Table of Allotments to allot DTV Channel 3 to Apalachicola, Florida, as that community's first local commercial television service. Section 73.622(b) would be amended as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Apalachicola, FL	----	3

No other change in the existing DTV Table of Allotments is requested.

2. LCEF's Proposal Meets the FCC's Separation Requirements. As shown in the attached Engineering Technical Statement, the allotment of DTV Channel 3 to Apalachicola at the proposed coordinates meets all spacing requirements set forth under Section 73.623(d) of the Rules. No short spacing or prohibited contour overlap will be caused to any known full power or Class A television license, construction permit, or pending modification application. The

proposed facilities would provide the required city grade contour coverage of the community of license. Therefore, the Commission may promptly act on this Petition.

2. LCEF's Proposal Serves the Public Interest Under the FCC's TV Allotment Priorities. As noted, the allotment of DTV Channel 3 will provide Apalachicola with a first local commercial television service, promoting the underlying objectives of Section 307(b) of the Communications Act of 1934, as amended, by providing a fair, efficient and equitable distribution of television broadcast stations to communities within the United States. It also serves the Commission's second television allotment priority of providing each community with at least one television broadcast station. *See, e.g., Sixth Report and Order on Television Allocations*, 41 FCC 148, 167 (1952).¹

3. Apalachicola is Deserving of a First Television Service. The community of Apalachicola is an incorporated community, with its own city hall, fire department, police department, library, water department, post office, zip code, elementary school and high school. It is also home to a weekly newspaper, *The Apalachicola Times*, the only weekly newspaper in Franklin County, as well as two commercial FM radio stations – WOYS(FM) and WFCT(FM), indicating the FCC has already determined Apalachicola has the community attributes necessary for allotment purposes. There are also numerous businesses and financial institutions located in Apalachicola.

¹ While Apalachicola is a relatively small community, the attached Engineering Technical Statement shows that the available area for allotment of DTV Channel 3 is very small. Apalachicola is the most substantial community near to the open area. It should be noted that the proposed reference coordinates are outside of Apalachicola.

4. LCEF's Declaration of Intent. If LCEF's proposal set forth herein is adopted, and the Commission allots DTV Channel 3 to Apalachicola, Florida, as requested, LCEF will file an appropriate application, and if authorized, will construct the new station facilities.

CONCLUSION

5. For the foregoing reasons, LCEF hereby respectfully requests that the Commission promptly initiate a rulemaking proceeding to amend the DTV Table of Allotments and to allot DTV Channel 3 to Apalachicola, Florida as that community's first local commercial television service.

Respectfully submitted,



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Counsel for Liberty County Educational
Foundation

December 31, 2003

ENGINEERING TECHNICAL STATEMENT PREPARED BY RYAN WILLOUR OF
THE FIRM KESSLER AND GEHMAN ASSOCIATES, INC.
TELECOMMUNICATIONS CONSULTING ENGINEERS IN SUPPORT OF A
PETITION FOR RULEMAKING TO AMEND THE DTV TABLE OF ALLOTMENTS.
APALACHICOLA, FLORIDA

The firm Kessler and Gehman Associates, Inc. has been retained by Liberty County Educational Foundation ("LCEF") to prepare the instant engineering statement and studies in support of a Petition for Rulemaking ("PFRM") to amend the DTV table of allotments¹ to add a new DTV channel and associate Apalachicola, FL ("Apalachicola") as the community of license.

Discussion

Pursuant to Section 74.622(a), a petitioner who requests to amend the DTV table of allotments to add a new channel must demonstrate a geographic site which is compliant with the geographic spacing criteria set forth in Section 73.623(d). Exhibit E1 demonstrates that the instant PFRM is compliant with the geographic spacing criteria using the geographic site² illustrated in Exhibit E2. It is noted that the geographic coordinates of Apalachicola is short spaced using the proposed channel; however, the geographic site illustrated in Exhibit E2 was chosen to serve Apalachicola and not be short spaced or cause contour overlap with other full service or LPTV Class A facilities respectively. Exhibit E3 demonstrates a maximum³ DTV facility at the chosen geographic location will completely envelop Apalachicola with a noise limited and city grade contour. The noise limited contour contains 453,701 people⁴ and covers 35,575 square km.

¹ C.F.R. Title 47 Section 73.622(b)

² North Latitude 29-45-05, West Longitude 84-52-19

³ Pursuant to Section 73.622(f) for DTV Channel 3 a HAAT of 305m and ERP of 45 kW are considered a maximum facilities

⁴ According to the 2000 Census Bureau

Conclusion

Exhibit E1 demonstrates that the DTV Table of Allotments can be amended to add DTV Channel 3 located at the geographic site illustrated in Exhibit E2 without short spacing and completely envelope Apalachicola with a city grade coverage contour as demonstrated in Exhibit E3. The instant PFRM completely complies with Section 74.623(d), thus it is respectfully requested to amend the DTV table of allotments to add digital channel 3 associated with Apalachicola, FL as its community of license.

Certification

I, Ryan Wilhour, declare and state that I am a graduate electrical engineer with a Bachelor of Science in Electrical Engineering and my qualifications are a matter of record with the Federal Communication Commission, and that I am an engineer in the firm of Kessler and Gehman Associates, Inc., and that firm has been retained by Liberty County Educational Foundation to prepare the foregoing technical statement.

The foregoing technical statement and aforementioned engineering work are true and correct to the best of my knowledge. Executed on December 17, 2003.

KESSLER AND GEHMAN ASSOCIATES, INC.



Ryan Wilhour

Telecommunications Consulting Engineer

KESSLER AND GEHMAN ASSOCIATES, INC.

Apalachicola, FL

December 17, 2003

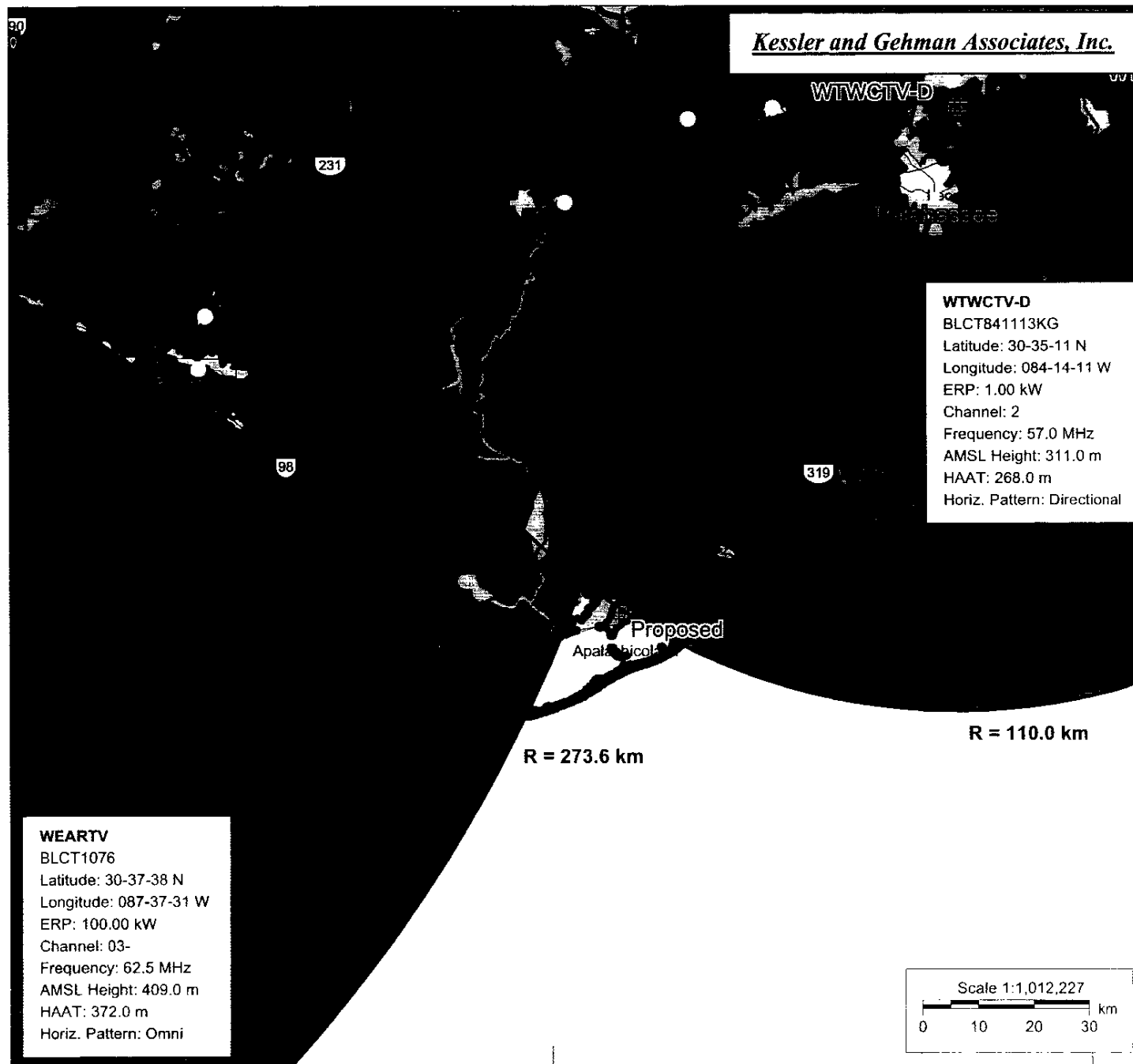
Digital TV Spacing Study

Channel: 3 Zone III (60-66 MHz) Digital
Database: FCC 12/3/2003 4:17:57 AM

Latitude: N 29° 45' 05.0"
Longitude: W 84° 52' 19.0"
Safety Zone: 120.0 km

Call	Auth	Licensee name	Chan	HAAT(m)	ERP	Latitude	Br-to	Dist	Req
City of License		St	FCC File Number	Zone	HAMSL(m)	(kW)	Longitude	-from	(km)
WTWC-TV	DTV	WTWC Licensee, LLC	2	268.0	1	N 30° 35' 11.0"	33.2	111.0	110.0
Tallahassee		FL		III		W 84° 14' 11.0"	213.5	0.974	CLOSE
Digital channel DA: rep FL-02-TALLAHASSE @ 0.0°									
WTWC-TV	Lic	WTWC Licensee, LLC	2	583.0	9.2	N 30° 40' 51.0"	39.7	134.6	110.0
Tallahassee		FL	BLCDT-20030214ABB	III	631.0	W 83° 58' 21.0"	220.1	24.59	CLEAR
Digital channel									
WEAR-TV	Lic	WEAR Licensee, LLC	3 -	372.0	100	N 30° 37' 38.0"	290.9	282.4	273.6
Pensacola		FL	BLCT-1076	III	409.0	W 87° 37' 31.0"	109.5	8.774	CLOSE
WEAR-TV	CP	WEAR Licensee, LLC	3 -	575.0	100	N 30° 36' 45.0"	290.5	283.6	273.6
Pensacola		FL	BPCT-20021004AAB	III	608.0	W 87° 38' 43.0"	109.1	10.05	CLOSE
WRBL	Lic	Media General Broadcasting of SC	3 o	543.0	100	N 32° 19' 25.0"	1.7	285.3	273.6
Columbus		GA	BLCT-1078	II	672.0	W 84° 46' 45.9"	181.8	11.71	CLOSE
WEDU	CP	Florida West Coast Public Broadc	*3 o	470.0	80	N 27° 50' 52.0"	129.2	330.7	273.6
Tampa		FL	BPET-19970212KE	III	491.0	W 82° 15' 48.0"	310.4	57.11	CLEAR
WEDU	Lic	Florida West Coast Public Broadc	*3 o	473.0	100	N 27° 49' 48.0"	129.4	331.8	273.6
Tampa		FL	BLET-19900703KE	III	491.0	W 82° 15' 59.0"	310.7	58.16	CLEAR
WTVY	Lic	Gray Midamerica TV License Corp.	4 o	573.0	100	N 30° 55' 10.0"	327.5	154.1	125.0
Dothan		AL	BLCT-19820126KI	III	611.0	W 85° 44' 28.0"	147.1	29.12	CLEAR

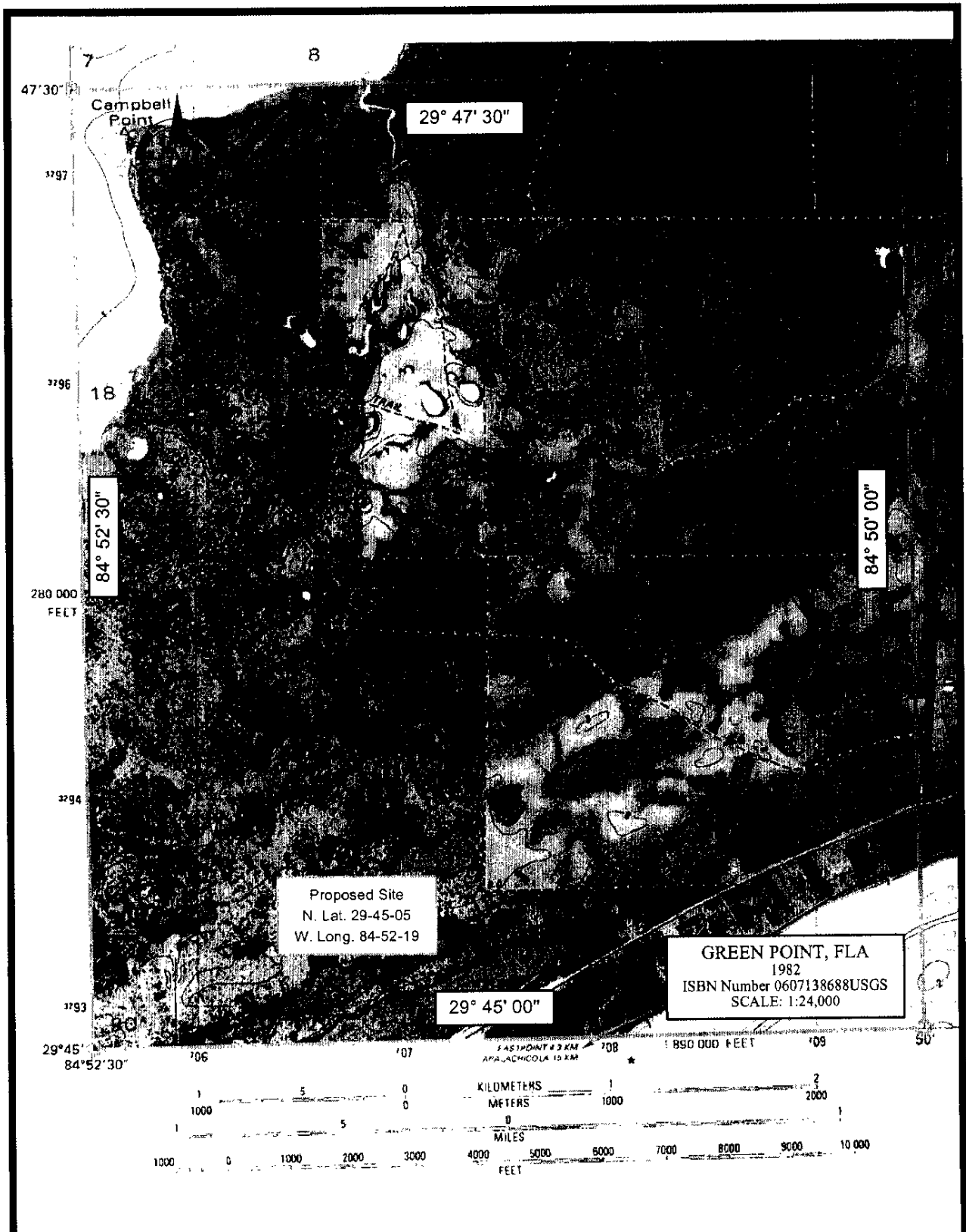
>> End of channel 3 Zone III study <<



Kessler and Gehman Associates, Inc.

Proposed

Apalachicola, FL
Latitude: 29-45-05 N
Longitude: 084-52-19 W
ERP: 45.00 kW
Channel: 3
Frequency: 63.0 MHz
AMSL Height: 305.755 m
HAAT: 305.0 m
Horiz. Pattern: Omni



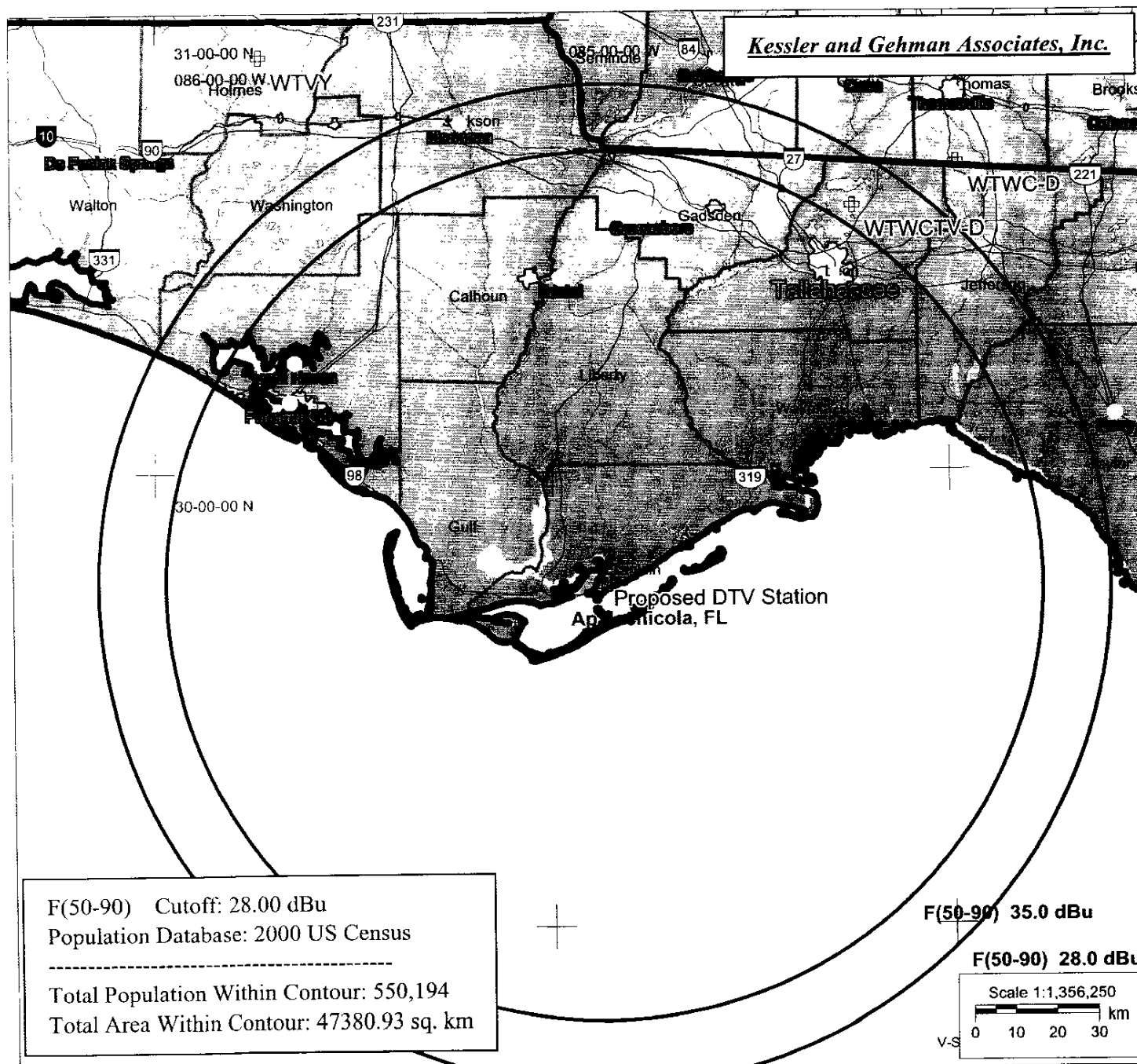
KESSLER & GEHMAN

TELECOMMUNICATIONS CONSULTING ENGINEERS
507 N.W. 60th Street, Suite C
Gainesville, Florida 32607

Apalachicola, Florida

20031217

EXHIBIT E2



Kessler and Gehman Associates, Inc.

Proposed DTV Station

Apalachicola, FL
 Latitude: 29-45-05 N
 Longitude: 084-52-19 W
 ERP: 45.00 kW
 Channel: 3
 Frequency: 63.0 MHz
 AMSL Height: 305.76 m
 HAAT: 305.0 m
 Horiz. Pattern: Omni

F(50-90) Cutoff: 28.00 dBu
 Population Database: 2000 US Census

 Total Population Within Contour: 550,194
 Total Area Within Contour: 47380.93 sq. km

F(50-90) 35.0 dBu

F(50-90) 28.0 dBu

Scale 1:1,356,250

0 10 20 30 km

EXHIBIT E3